

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7348 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?
1 to 5 : No

DAHIBEN WIDOW OF MOTIBHAI SHANKARBHAI SINCE DECD.

Versus

URBAN LAND CEILING TRIBUNAL

Appearance:

MR PB MAJMUDAR for Petitioner
MR SP DAVE, AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 03/02/97

ORAL JUDGEMENT

The facts annexed to the petition would go to show that the petition requires a full recognition and the Rule issued earlier requires to be made absolute and the proceedings require to be remanded to the Competent Authority, under the Urban Land (Ceiling and Regulation) Act, 1976.

The present petitioner-Mahendrabhai Patel happens to be the heir and legal representative of deceased Dahiben M. Patel. Originally, she was the holder of the land. She had filed the declaration in form No.1 under Section 6(1) of the ULC Act, 1976. The hearing was fixed before the Competent Authority, but it appears that, no effective representation could be made on behalf of the

land holder. The Competent Authority was of the opinion that the exemption granted under Section 20 of the Act of 1976 has been cancelled and that, therefore, an area admeasuring 2547 sq.mtrs. of land should be declared as the excess vacant land. The same has been done under the orders of the Competent Authority dated May 30, 1984. These orders were carried before the ULC Tribunal by filing appeal Vadodara No.1088/84. There also, it appears that, though the proceedings had lasted for a pretty long time, the present petitioner could not be heard. Ultimately, the appeal came to be dismissed under the orders dated February 28, 1994. These appellate orders confirming the earlier orders of the Competent Authority are in challenge before me in the present petition.

Learned Counsel Mr.Majmudar, who appears on behalf of the petitioner urges that, not only before the Competent Authority, but before the Tribunal also, there was no effective representation for and on behalf of the petitioner. The learned Counsel urges that, when ultimately the matter was being decided by the learned Tribunal, the original land holder-Dahiben had expired and the present petitioner had stepped in her shoes. Because of the communication gap, the present petitioner could not remain present and ultimately the matter has been decided regard being had to certain record which was available to the Tribunal.

Upon hearing learned Counsel Mr.Majmudar and learned Govt. Counsel Mr. Dave, it appears that, on both the occasions, i.e. before the Competent Authority and before the Tribunal also, there was no effective representation on behalf of the petitioner. The proceedings have proceeded ahead on the assumption that as the permission under Section 20 of the ULC Act, 1976 has been cancelled, the above said land should be the excess vacant land. It appears that the entire chapter requires a re-consideration after affording a reasonable opportunity of being heard to the petitioner. The present petition, therefore, requires a recognition. The said orders under challenge are hereby quashed and set aside and the matter is remitted back to the Competent Authority with a direction to decide the same afresh after affording a reasonable opportunity of being heard to the petitioner. All the questions which appear to be relevant for the purpose of just decision shall be decided by the Competent Authority.

Learned Counsel Mr.Majmudar makes a statement that, as the proceedings are quite old, the petitioner

shall be co-operating with the Competent Authority for early disposal of the matter and shall not be asking for dates.

Rule is made absolute to the above said extent, with no order as to costs.
